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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/740,965

12/21/2000

John Robert Davies

PT-1673004

7407

24628

7590

02/26/2009

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EXAMINER

REDMAN, JERRY E

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

02/26/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/740,965	<b>Applicant(s)</b> DAVIES ET AL.	
	<b>Examiner</b> Jerry Redman	<b>Art Unit</b> 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

Receipt is acknowledged of a request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e) and a submission, filed on 12/4/2008.

Status of the claims is as follows:

Claims 1-18 have been cancelled; and

Claims 19-57 are herein addressed below.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morgan (2,235,295) in view of Kramer (3,842,890). Morgan discloses a window assembly comprising a window frame (16, 15-both sides, and 14), a jamb pocket portion (24 and 39-both sides), a retractable mesh screen (26) rolled onto a spring-biased cassette (column 2, lines 10-14) integrally contained within the jamb pocket (24 and 39-both sides), a T-shaped handle (28) extending along the bottom portion of the screen (26) and guided along jamb pocket portion grooves (39) thereby providing parallelism as the screen (26) is biased to a closed position. Morgan ('295) fails to disclose the assembly mounted within a jamb and tracks along header and sill portions, i.e., horizontally sliding. Kramer ('890) discloses a horizontally sliding retractable screen

Art Unit: 3634

extending from a jamb and guided along tracks (42 and 44) within sill and header portions. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the assembly of Morgan ('295) with header and sill portions (i.e., horizontally sliding assembly) as taught by Kramer ('890) since a horizontally sliding assembly allows one to reach a first end of the assembly to move the screen between an open and closed position. With respect to claims 32, 33 and 49-50, it would have been further obvious to one of ordinary skill in the art at the time of the invention to provide the screen of Morgan to be formed of fiberglass or vinyl coated substrate since fiberglass or vinyl coated substrate is lighter and cheaper to manufacture and metal screen mesh, fiberglass screen mesh, and vinyl coated substrate are art equivalent.

Applicant's arguments with respect to claims 19-57 have been considered but are not deemed persuasive.

The applicant's arguments are not clearly understood by the Examiner. The applicant's claims are directed towards an assembly (i.e., apparatus) and not a method of assembly per se. Therefore, in a product-by-process claim, little to no patentable weight is give to the process in an apparatus claim even though the applicant argues these methods steps as being patentable over the art of record. In several previous office actions, the applicant has taken the position that weight is given to the process and the Examiner has taken the position that little to no patentable weight is give to the process/method when the invention is directed towards an apparatus. Even with the

Art Unit: 3634

applicant's amendments, the claims are relied on the method and/or method steps and not the apparatus. Therefore, the applicant's arguments, which are directed towards the process, fail to overcome the art of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jerry Redman whose telephone number is 571-272-6835. The examiner can normally be reached on M-F from 8 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Mitchell, can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jerry Redman  
Primary Examiner  
Art Unit 3634

/Jerry Redman/  
Primary Examiner, Art Unit 3634